

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

RUBEN TRUJILLO,
Plaintiff,
vs.
STATE OF UTAH,
Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATIONS**

Case No. 2:11-cv-0841 CW-SA

District Judge Clark Waddoups

Magistrate Judge Brooke C. Wells

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Brooke C. Wells under 28 U.S.C. § 636(b)(1)(B). On September 26, 2011, Judge Wells issued a Report and Recommendation that recommends dismissal pursuant to 28 U.S.C. § 1915. Judge Wells concluded Plaintiff Ruben Trujillo's complaint fails to state a claim and that leave to amend would be futile. Mr. Trujillo filed an Objection. The court therefore reviews the file *de novo*.

Mr. Trujillo's complaint asserts State of Utah discriminated against him based on his disability. He attached exhibits that show he was denied General Assistance. General Assistance is a state program that provides financial assistance to adults who are unable to work. The exhibits indicate Mr. Trujillo was denied General Assistance initially because he failed to complete his application. It then appears he reapplied and was denied because a doctor certified he is able to work. It further appears that Mr. Trujillo was informed of his rights to appeal, but no information was provided to the court to show that Mr. Trujillo actually exhausted his administrative remedies. Moreover, Mr. Trujillo has failed to assert how this court has jurisdiction to determine whether a

state run program is being administered appropriately.

Mr. Trujillo also attached tax documents to show he disputed a state tax collection based on his disability. The documentation likewise fails to show exhaustion of administrative remedies and how the court has jurisdiction to review a state tax collection issue.

The court therefore concurs that Mr. Trujillo has failed to state a claim upon which relief may be granted. Subsequent to Judge Wells' Report and Recommendation, Mr. Trujillo filed an Amended Complaint, Objection, and other documents. The documents baldly refer to Title II of the Americans with Disabilities Act, but provide no facts that state a claim for relief. Thus, the court concurs that granting Mr. Trujillo leave to amend his complaint would be futile.

Accordingly, the court hereby APPROVES AND ADOPTS the Report and Recommendation in its entirety.¹ Based on this ruling, Mr. Trujillo's Motion for Service of Process and Motion to Appoint Counsel are DENIED AS MOOT.² This case is hereby dismissed.

SO ORDERED this 16th day of December, 2011.

BY THE COURT:



Clark Waddoups
United States District Judge

¹ Docket No. 8.

² Docket Nos. 4 and 5.